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STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

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House Bill 6236 (As Introduced)

Topic: Foreclosures
Sponsor: Representative Scott
Co-sponsors: Representatives Polidori, Jackson, Kathleen Law, Young, Hood, Brown, Espinoza, Lemmons, Virgil Smith, Gaffney, and Dean
Committee: House Banking and Financial Services

Date Introduced: June 12, 2008

Date of Summary: August 13, 2008

The bill amends the Revised Judicature Act of 1961 to establish a procedure for a lender to provide a notice before foreclosing a mortgage. The bill prescribes the general form and timing of the notice. The Michigan State Housing Development Authority is required to adopt a notice under the Administrative Procedures Act. A lender is prohibited from proceeding with a foreclosure within certain time parameters listed in the bill. The lender must wait until the later of 33 days after sending the required notice, 30 days after the date of a first meeting between the mortgagor and mortgagee, or 30 days after the mortgagor first meets with a consumer counseling agency. A notice is not required if the mortgagor is more than 24 months behind in payments, the total amount due is more than \$60,000, or the mortgagor has received a notice from another person who holds a mortgage on the property. A second notice is not required if the mortgagee has received only partial payment under an agreement made after the previous notice or the first notice was sent while the mortgagor was in bankruptcy.

A court is required to stay foreclosure actions not entered by the bill's effective date for one year on motion by a defendant. In a foreclosure action in which judgment has been entered but the redemption period has not expired by the effective date, the court is required to include a stay for one year after the effective date for property that is unsold or a one year extension of the redemption period if the property has been sold. A court may include certain items specified in the bill in the order creating the stay. These include giving preference to the owner in possession, requiring a fair amount to be paid as rental by the person in possession, the application of rent and other revenue received from the property, and the preservation of the property. The provisions in an order may not contradict a restructuring or other agreement between the lender and the mortgagor. No stay is available if the defendant has failed to meet with the mortgagee or a credit counseling agency after receiving the notice provided in the bill.